



**TOWN OF KITTERY**  
**CODE ENFORCEMENT OFFICE**  
200 ROGERS ROAD, KITTERY, MAINE 03904  
PHONE: (207) 475-1305  
FAX: (207) 439-6806

*Application to the*  
**BOARD OF APPEALS**

|                |  |
|----------------|--|
| DATE SUBMITTED |  |
| MAP & LOT      |  |
| ASA FEE        |  |
| DATE PAID      |  |
| DATE COMPLETE  |  |
| HEARING DATE   |  |

**MISCELLANEOUS VARIATION REQUEST**

I have reviewed Town Code Title 16, Board of Appeals By-Laws, and the Ordinance(s) pertinent to this application. My request is based on Title 6.4.3, Miscellaneous Variation Request and:

- ☐ Nonconformity (Article III of Chapter 16.7);
- ☐ Nonconforming Residential Use in Commercial Zones Expansion (Section 7.3.5.3);
- ☐ Nonconforming Lots of Record (Section 7.3.5.9);
- ☐ Sign Violation and Appeal Standards (Section 8.10.3);
- ☐ Parking, Loading and Traffic Standards (Article IX of Chapter 16.8);
- ☐ Temporary, Intra-Family Dwelling Unit (Article XXI of Chapter 16.8); or
- ☐ Accessory Dwelling Units Standards (Article XXV of Chapter 16.8).

**IN ORDER FOR AN APPLICATION TO BE DETERMINED COMPLETE AND SCHEDULED FOR A PUBLIC HEARING:  
APPLICATIONS FORMS MUST BE COMPLETE; 10 SETS OF DOCUMENTATION PROVIDED; & ALL FEE(S) PAID**

**PROPERTY INFORMATION**

|  |  |       |                  |          |  |
|--|--|-------|------------------|----------|--|
| ADDRESS  |  |       |                  |          |  |
| MAP  |  | LOT # |                  | LOT SIZE |  |
| BASE ZONE(S):  |  |       | OVERLAY ZONE(S): |          |  |
| <b>The subject property:</b><br>[ is / is not ] in a Shoreland overlay or Resource Protection zone; [ is / is not ] in a floodplain; AND<br>[ does / does not ] have outstanding code violations; and, if so, granting this appeal provides resolution . |  |       |                  |          |  |

**PROPERTY OWNER: I have right, title or interest in the affected property, or issue, as shown by:**

|                 |  |       |         |          |  |
|-----------------|--|-------|---------|----------|--|
|                 |  |       |         |          |  |
| NAME(S)         |  |       |         |          |  |
| MAILING ADDRESS |  |       |         |          |  |
| CITY            |  | STATE |         | ZIP CODE |  |
| PHONE No.       |  |       | e-MAIL: |          |  |

*NOTE: You may have an attorney represent you, but such representation is not necessary. You may also be represented by a designated agent (e.g. family member, neighbor, engineer, contractor) as you so desire.*

**APPLICANT (if different) I am an agent of the applicant with standing, as shown by:**

|                 |  |       |         |          |  |
|-----------------|--|-------|---------|----------|--|
|                 |  |       |         |          |  |
| NAME(S)         |  |       |         |          |  |
| MAILING ADDRESS |  |       |         |          |  |
| CITY            |  | STATE |         | ZIP CODE |  |
| PHONE No.       |  |       | e-MAIL: |          |  |

To the best of my knowledge, all information submitted on and with this application is true and correct.

Date: \_\_\_\_\_

By: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print Name)

|   |
|---|
| <b>AFFIRMATIONS</b> <i>(Please read and check all the boxes to confirm)</i> |
|---|

| Identify relevant Town code sections: |  |         |  |         |  |  |  |  |  |      |  |
|---------------------------------------|--|---------|--|---------|--|--|--|--|--|------|--|
| TITLE                                 |  | CHAPTER |  | SECTION |  |  |  |  |  | PAGE |  |
| TITLE                                 |  | CHAPTER |  | SECTION |  |  |  |  |  | PAGE |  |
| TITLE                                 |  | CHAPTER |  | SECTION |  |  |  |  |  | PAGE |  |

**I understand that the Board of Appeals:**

- ☐ May hear and decide on a miscellaneous variation request within the limitations set forth in the Title 16 Section identified in Item A-H on Page 1.
- ☐ Appears to have jurisdiction to hear this request; hearing must be held within 30 days of this request filing; application must be complete; and, public and abutter notice must be made no less than seven days prior to the scheduled hearing.
- ☐ Will conduct this hearing De Novo (meaning the Board acts if it were considering the question for the first time, affording no deference to the preceding agency decisions; may receive new evidence and testimony consistent with this Town Code Title 16 and the Board rules; and, conduct additional hearings and receive additional evidence and testimony).
- ☐ Will determine my Burden of Proof:
  - 1) What does the ordinance/statute require the applicant to prove?
  - 2) Does the ordinance/statute prohibit or limit the type of use being proposed?
  - 3) What factors must be considered under ordinance/statutes to decide whether to grant the request?
  - 4) Is the evidence presented substantial? Is it credible? Is it outweighed by conflicting evidence?
- ☐ Requires substantial evidence as the Standard of Review for this request, meaning:  
*"More than a mere scintilla". It means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. The preponderance of evidence standard is met if the proposition is more likely to be true than not true. The standard is satisfied if there is greater than fifty percent chance that the proposition is true.*
- ☐ May hear, decide, and approve variations in accordance with the criteria listed in Town Code Title 16, Sections 6.6.1, Factors, and 6.6.2, Considerations; and may consider other Title 16 standards.
- ☐ Approval may not be granted for an application involving a structure if the structure would be located in an unapproved subdivision or would violate any other local ordinance or regulation or any state law which the municipality is responsible for enforcing.
- ☐ Is only legally authorized to deal with issues arising from the list above, and do not include such matters as constitutionality, civil rights, criminal acts, property disputes, surliness, etc.
- ☐ Will not even hear my appeal unless I can show that I have "standing" to have my complaint heard;
- ☐ Purpose of establishing my case for "standing" is to limit appeals on an issue to those who are directly involved and/or affected.
- ☐ Will try to decide my case based only on the factual information presented and what is written in the pertinent Town ordinance/regulation, State statute(s)/regulation(s) and the rulings of the State Supreme Judicial Court.
- ☐ Tries to make decisions it believes would be upheld if appealed to Superior Court.

**Additional Information**

1. Please complete this application in its entirety. You may add other information as may be needed to adequately describe the purpose of seeking relief from the Board of Appeals.

2. A detailed plot plan or diagram must be provided showing dimensions and shape of the lot, the size and locations of existing buildings, the locations and dimensions of proposed buildings or alterations, and any natural or topographic features (wetlands, streams, etc) of the lot in question. This plot plan should also include the distances to the nearest structures on abutting properties and show the detail of any rights-of-way, easements, or other encumbrances.

3. Blueprints, surveys, photos and other documents may be helpful in explaining your request and should be included.

**STATEMENT:**

**Describe the general nature of the request:**

This image shows a full page of blank white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.